

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 291

HOUSE BILL 2091

AN ACT

AMENDING SECTIONS 6-1241 AND 13-2317, ARIZONA REVISED STATUTES; REPEALING
SECTION 6-1219, ARIZONA REVISED STATUTES; RELATING TO MONEY LAUNDERING.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 6-1241, Arizona Revised Statutes, is amended to
3 read:

4 6-1241. Reports to the attorney general; investigation;
5 violation; classification

6 A. Within thirty days after any transaction or series or pattern of
7 transactions that is conducted or attempted by, at or through the business
8 and that involves or aggregates five thousand dollars or more in funds or
9 other assets, each licensee and authorized delegate of a licensee and each
10 money transmitter shall file with the attorney general's office in a form
11 prescribed by the attorney general a report of the transaction or series or
12 pattern of transactions if the licensee, authorized delegate or money
13 transmitter knows, suspects or has reason to suspect that the activity
14 either:

15 1. Involves funds that are derived from illegal activities, is
16 intended or conducted in order to hide or disguise funds or other assets that
17 are derived from illegal activities, including, without limitation, the
18 ownership, nature, source, location or control of the funds or other assets,
19 as part of a plan to violate or evade any law or regulation or to avoid any
20 transaction reporting requirement under this chapter or may constitute a
21 possible money laundering violation under section 13-2317 or other ANOTHER
22 racketeering violation as defined in section 13-2301.

23 2. Has no business or apparent lawful purpose or is not the sort of
24 activity in which the particular customer would normally be expected to
25 engage and the licensee, authorized delegate or money transmitter knows of
26 no reasonable explanation for the activity after examining the available
27 facts, including the background and possible purpose of the activity.

28 B. A licensee, authorized delegate or money transmitter that is
29 required to file a report regarding business conducted in this state pursuant
30 to the currency and foreign transactions reporting act (31 United States Code
31 sections 5311 through 5326, including any special measures that are
32 established under 31 United States Code section 5318A, and 31 Code of Federal
33 Regulations part 103 or 12 Code of Federal Regulations section 21.11) shall
34 file a duplicate of that report with the attorney general.

35 C. All persons who are engaged in a trade or business and who receive
36 more than ten thousand dollars in money in one transaction or who receive
37 more than ten thousand dollars in money through two or more related
38 transactions shall complete and file with the attorney general the
39 information required by 31 United States Code section 5331 and the federal
40 regulations relating to this section concerning reports relating to cash
41 received in trade or business.

42 D. A licensee, authorized delegate or money transmitter that is
43 regulated under the currency and foreign transactions reporting act (31
44 United States Code section 5325 and 31 Code of Federal Regulations part 103)
45 and that is required to make available prescribed records to the secretary

1 of the United States department of treasury on request at any time shall
2 follow the same prescribed procedures and create and maintain the same
3 prescribed records relating to each transaction.

4 E. In addition to the requirements under subsection D of this section
5 and in connection with each transaction that involves transmitting money in
6 an amount of one thousand dollars or more, whether sending or receiving, a
7 licensee or, for transactions conducted through an authorized delegate, an
8 authorized delegate shall retain a record of each of the following:

9 1. The name and social security or taxpayer identification number, if
10 any, of the individual presenting the transaction and the person and the
11 entity on whose behalf the transaction is to be effected.

12 2. The type and number of the customer's verified photographic
13 identification, as described in 31 Code of Federal Regulations section
14 103.28.

15 3. The customer's current occupation.

16 4. The customer's current residential address.

17 5. The customer's signature.

18 F. Subsection E of this section does not apply to transactions by
19 which the licensee's customer is making a bill payment either to a commercial
20 creditor pursuant to a contract between the licensee and the commercial
21 creditor or to a utility company.

22 G. Each licensee shall create records that reflect the provision of
23 updated operating policies and procedures pursuant to section 6-1208,
24 subsection B and of instruction that promotes compliance with this chapter,
25 title 13, chapter 23 and 31 United States Code section 5318, including the
26 identification of the provider and the material and instruction that was WERE
27 provided.

28 H. On request of the attorney general, a county attorney or the
29 superintendent, a licensee, authorized delegate or money transmitter shall
30 make any records that are created pursuant to this section available to the
31 attorney general, a county attorney or the superintendent at any time.

32 I. A licensee or, for transactions conducted through an authorized
33 delegate, an authorized delegate shall maintain any customer identification
34 records that are created pursuant to subsection E of this section for three
35 years. After three years, the licensee or, for transactions conducted
36 through an authorized delegate, the authorized delegate shall deliver the
37 customer identification records to the attorney general. The attorney
38 general shall make the records available on request to the superintendent or
39 a county attorney but shall not otherwise distribute the customer
40 identification records without a court order. The customer identification
41 records shall not be used for any purpose other than for criminal and civil
42 prosecution and the prevention and detection of fraud and other criminal
43 conduct.

44 J. If the superintendent or the attorney general finds that reasonable
45 grounds exist for requiring additional record keeping and reporting in order

1 to carry out the purposes of this chapter and to prevent the evasion of this
2 chapter, the superintendent or the attorney general may:

3 1. Issue an order requiring any group of licensees, authorized
4 delegates or money transmitters in a geographic area to do any of the
5 following:

6 (a) Obtain information regarding transactions that involve total
7 dollar amounts or denominations of five hundred dollars or more, including
8 the names of any persons participating in those transactions AND ANY PERSONS
9 OR ENTITIES ON WHOSE BEHALF THEY ARE TO BE EFFECTED.

10 (b) Maintain records of that information for at least five years and
11 make those records available to the attorney general and the superintendent.

12 (c) File a report with the attorney general and the superintendent
13 regarding any transaction in the manner prescribed in the superintendent's
14 order.

15 2. Issue an order exempting any group of licensees or authorized
16 delegates from the requirements of subsection E of this section based on the
17 geographic area, the volume of business conducted, the record of compliance
18 with the reporting requirements of this chapter and other objective criteria.

19 K. An order issued pursuant to subsection J of this section is not
20 effective for more than one hundred eighty days unless renewed after finding
21 that reasonable grounds exist for continuation of the order.

22 L. The timely filing of a report required by this section with the
23 appropriate federal agency shall be deemed compliance with the reporting
24 requirements of this section, unless the attorney general has notified the
25 superintendent that reports of that type are not regularly and
26 comprehensively transmitted by that federal agency to the attorney general.

27 M. This chapter does not preclude a licensee, authorized delegate,
28 money transmitter, financial institution or person engaged in a trade or
29 business from instituting contact with and disclosing customer financial
30 records to appropriate state or local law enforcement agencies if the
31 licensee, authorized delegate, money transmitter, financial institution or
32 person has information that may be relevant to a possible violation of any
33 criminal statute or to the evasion or attempted evasion of any reporting
34 requirement of this chapter.

35 N. A licensee, authorized delegate, money transmitter, financial
36 institution, person engaged in a trade or business or director, officer,
37 employee, agent or authorized delegate of any of them that keeps or files a
38 record as prescribed by this section, that communicates or discloses
39 information or records under subsection M of this section or that requires
40 another to make any such disclosure is not liable to any person under any law
41 or rule of this state or any political subdivision of this state or under any
42 contract or other legally enforceable agreement, including any arbitration
43 agreement, for the disclosure or for the failure to provide notice of the
44 disclosure to the person who is the subject of the disclosure or to any other

1 person who is identified in the disclosure. This subsection shall be
2 construed to be consistent with 31 United States Code section 5318(g)(3).

3 O. The attorney general may report any possible violations indicated
4 by analysis of the reports required by this chapter to any appropriate law
5 enforcement agency for use in the proper discharge of its official
6 duties. If an officer or employee of this state or any political subdivision
7 of this state receives a report pursuant to 31 United States Code section
8 5318(g), the report shall be disclosed only as provided in 31 United States
9 Code section 5318(g). A person who releases information received pursuant
10 to this subsection except in the proper discharge of official duties is
11 guilty of a class 2 misdemeanor.

12 P. The requirements of this section shall be construed to be
13 consistent with the requirements of the currency and foreign transactions
14 reporting act, (31 United States Code sections 5311 through 5326 and federal
15 regulations prescribed under those sections) unless the context otherwise
16 requires.

17 Q. A PERSON WHO REFUSES TO PERMIT ANY LAWFUL INVESTIGATION BY THE
18 SUPERINTENDENT, A COUNTY ATTORNEY OR THE ATTORNEY GENERAL OR WHO REFUSES TO
19 MAKE RECORDS AVAILABLE TO THE SUPERINTENDENT, A COUNTY ATTORNEY OR THE
20 ATTORNEY GENERAL PURSUANT TO SUBSECTION H OF THIS SECTION IS GUILTY OF A
21 CLASS 6 FELONY.

22 Sec. 2. Repeal

23 Section 6-1219, Arizona Revised Statutes, is repealed.

24 Sec. 3. Section 13-2317, Arizona Revised Statutes, is amended to read:
25 13-2317. Money laundering; classification; definitions

26 A. A person is guilty of money laundering in the first degree if the
27 person does any of the following:

28 1. Knowingly initiates, organizes, plans, finances, directs, manages,
29 supervises or is in the business of money laundering in violation of
30 subsection B of this section.

31 2. Violates subsection B of this section in the course of or for the
32 purpose of facilitating terrorism or murder.

33 B. A person is guilty of money laundering in the second degree if the
34 person does any of the following:

35 1. Acquires or maintains an interest in, transacts, transfers,
36 transports, receives or conceals the existence or nature of racketeering
37 proceeds knowing or having reason to know that they are the proceeds of an
38 offense.

39 2. Makes property available to another by transaction, transportation
40 or otherwise knowing that it is intended to be used to facilitate
41 racketeering.

42 3. Conducts a transaction knowing or having reason to know that the
43 property involved is the proceeds of an offense and with the intent to
44 conceal or disguise the nature, location, source, ownership or control of the
45 property or the intent to facilitate racketeering.

1 4. Intentionally or knowingly makes a false statement,
2 misrepresentation or false certification or makes a false entry or omits a
3 material entry in any application, financial statement, account record,
4 customer receipt, report or other document that is filed or required to be
5 maintained or filed under title 6, chapter 12.

6 5. Intentionally or knowingly evades or attempts to evade any
7 reporting requirement under section 6-1241, whether by structuring
8 transactions as described in 31 Code of Federal Regulations part 103, by
9 causing any financial institution, money transmitter, trade or business to
10 fail to file the report, by failing to file a required report or record or
11 by any other means.

12 6. Intentionally or knowingly provides any false information or fails
13 to disclose information that causes any licensee, authorized delegate, money
14 transmitter, trade or business to either:

15 (a) Fail to file any report or record that is required under section
16 6-1241.

17 (b) File such a report or record that contains a material omission or
18 misstatement of fact.

19 7. Intentionally or knowingly falsifies, conceals, covers up or
20 misrepresents or attempts to falsify, conceal, cover up or misrepresent the
21 identity of any person in connection with any transaction with a financial
22 institution or money transmitter.

23 8. In connection with a transaction with a financial institution or
24 money transmitter, intentionally or knowingly makes, uses, offers or presents
25 or attempts to make, use, offer or present, whether accepted or not, a forged
26 instrument, a falsely altered or completed written instrument or a written
27 instrument that contains any materially false personal identifying
28 information.

29 9. If the person is a money transmitter, a person engaged in a trade
30 or business or any employee of a money transmitter or a person engaged in a
31 trade or business, intentionally or knowingly accepts false personal
32 identifying information from any person or otherwise knowingly incorporates
33 false personal identifying information into any report or record that is
34 required by section 6-1241.

35 10. Intentionally conducts, controls, manages, supervises, directs or
36 owns all or part of a money transmitting business for which a license is
37 required by title 6, chapter 12 unless the business is licensed pursuant to
38 title 6, chapter 12 and complies with the money transmitting business
39 registration requirements under 31 United States Code section 5330.

40 C. A person is guilty of money laundering in the third degree if the
41 person intentionally or knowingly does any of the following:

42 1. In the course of any transaction transmitting money, confers or
43 agrees to confer anything of value on a money transmitter or any employee of
44 a money transmitter that is intended to influence or reward any person for
45 failing to comply with any requirement under title 6, chapter 12.

1 2. Engages in the business of receiving money for transmission or
2 transmitting money, as an employee or otherwise, and receives anything of
3 value upon an agreement or understanding that it is intended to influence or
4 benefit the person for failing to comply with any requirement under title 6,
5 chapter 12.

6 D. In addition to any other criminal or civil remedy, if a person
7 violates subsection A or B of this section as part of a pattern of violations
8 that involve a total of one hundred thousand dollars or more in any twelve
9 month period, the person is subject to forfeiture of substitute assets in an
10 amount that is three times the amount that was involved in the pattern,
11 including conduct that occurred before and after the twelve month period.

12 E. Money laundering in the third degree is a class 6 felony. Money
13 laundering in the second degree is a class 3 felony. Money laundering in the
14 first degree is a class 2 felony.

15 F. For the purposes of this section:

16 1. The following terms have the same meaning prescribed in section
17 6-1201:

- 18 (a) "Authorized delegate".
- 19 (b) "Licensee".
- 20 (c) "Money accumulation business".
- 21 (d) "Money transmitter".
- 22 (e) "Trade or business".
- 23 (f) "Transmitting money".

24 2. The following terms have the same meaning prescribed in section
25 13-2001:

- 26 (a) "Falsely alters a written instrument".
- 27 (b) "Falsely completes a written instrument".
- 28 (c) "Falsely makes a written instrument".
- 29 (d) "Forged instrument".
- 30 (e) "Personal identifying information".
- 31 (f) "Written instrument".

32 3. The following terms have the same meaning prescribed in section
33 13-2301:

- 34 (a) "Financial institution".
- 35 (b) "Financial instrument".
- 36 (c) "Racketeering", EXCEPT THAT FOR THE PURPOSES OF CIVIL REMEDIES
37 SOUGHT BY THE ATTORNEY GENERAL, "RACKETEERING" INCLUDES ANY ACT, REGARDLESS
38 OF WHETHER THE ACT WOULD BE CHARGEABLE OR INDICTABLE UNDER THE LAWS OF THIS
39 STATE OR WHETHER THE ACT IS CHARGED OR INDICTED, THAT IS COMMITTED FOR
40 FINANCIAL GAIN, PUNISHABLE BY IMPRISONMENT FOR MORE THAN ONE YEAR UNDER THE
41 LAWS OF THE UNITED STATES AND DESCRIBED IN SECTION 274(a)(1)(A)(i), (ii) OR
42 (iii) OR (a)(2) OF THE IMMIGRATION AND NATIONALITY ACT (8 UNITED STATES CODE
43 SECTION 1324(a)(1)(A)(i), (ii) OR (iii) OR (a)(2)) IF PERSONS ACTING IN
44 CONCERT IN THE CONDUCT ACQUIRE A TOTAL OF MORE THAN FIVE THOUSAND DOLLARS
45 THROUGH THE CONDUCT IN A ONE MONTH PERIOD. FOR THE PURPOSE OF FORFEITURE OF

1 PROPERTY OTHER THAN REAL PROPERTY, THE CONDUCT MUST INVOLVE MORE THAN THREE
2 ALIENS IN A ONE MONTH PERIOD. FOR THE PURPOSE OF FORFEITURE OF REAL
3 PROPERTY, THE CONDUCT MUST INVOLVE MORE THAN FIFTEEN ALIENS IN A ONE MONTH
4 PERIOD.

5 4. The following terms have the same meaning prescribed in section
6 13-2314:

7 (a) "Acquire".

8 (b) "Proceeds".

9 G. For the purposes of this section:

10 1. "OFFENSE" HAS THE SAME MEANING PRESCRIBED IN SECTION 13-105 AND
11 INCLUDES CONDUCT FOR WHICH A SENTENCE TO A TERM OF INCARCERATION IS PROVIDED
12 BY ANY LAW OF THE UNITED STATES.

13 2. "Superintendent" has the same meaning prescribed in section
14 6-101.

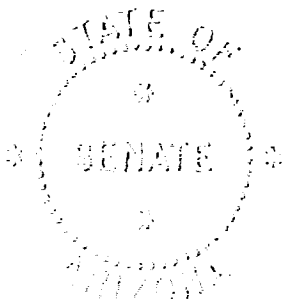
15 3. "Transaction" means a purchase, sale, trade, loan, pledge,
16 investment, gift, transfer, transmission, delivery, deposit, withdrawal,
17 payment, transfer between accounts, exchange of currency, extension of
18 credit, purchase or sale of any financial instrument or any other acquisition
19 or disposition of property by whatever means.

20 Sec. 4. Legislative intent

21 This act may not be construed to require any Arizona law enforcement,
22 prosecutorial or other official to enforce any federal statute, or to in any
23 way encourage any shift to the state or to any political subdivision of the
24 state the federal government's obligation to enforce immigration law.

APPROVED BY THE GOVERNOR JUNE 1, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 1, 2004.



Passed the House March 9, 2004,

Passed the Senate May 24, 2004,

by the following vote: 38 Ayes,

by the following vote: 21 Ayes,

20 Nays, 2 Not Voting

8 Nays, 1 Not Voting

Jake Flake
Speaker of the House

Klu Bennett
President of the Senate

Norman L. Moore
Chief Clerk of the House

Charmine Billington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

May 25, 2004,

by the following vote: 56 Ayes,

2 Nays, 2 Not Voting

Jake Flake
Speaker of the House
Norman L. Syoore
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

25th day of May, 2004,

at 4:20 o'clock P. M.

Wenndulpharra
Secretary to the Governor

Approved this 1 day of

June, 2004,

at 3:45 o'clock P. M.

J. N. Ariz. Gov.
Governor of Arizona

H.B. 2091

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 1 day of June, 2004,

at 4:38 o'clock P. M.

Janice L. Brewer
Secretary of State